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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,102	10/28/2003	Mark E. Tuttle	MI40-363	6610

7590 04/11/2006

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SPOKANE, WA 99201-3828

EXAMINER	
ZIMMERMAN, BRIAN A	

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/696,102	TUTTLE ET AL.	
	Examiner	Art Unit	
	Brian A. Zimmerman	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-53 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-53 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/06 and 10/03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Specification

The specification should be amended to reflect the status of the parent application.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. **It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.** The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract should be amended to meet the 150-word limitation.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elements of claims 3,6,10,13,17,20,24,27,31,37,40,44,47 and 49 must be shown or the feature(s) canceled from the claim(s). Namely the switching of one of a fixed network of electrical connections to reconfigure or tune the system. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 46-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 46, it is unclear how the adjusting of a transmitter circuit can effect the reception range of the same device. It is assumed that the applicant intends to claim that the transmission range of the transmitter is affected. Claims 47 and 48 depend from and include the deficiencies of claim 46, while neither corrects this above noted problem.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,2,5,8,9,12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6781508. Although the conflicting claims are not identical, they are not patentably distinct from each other because the pending claims are broader than the patented claims. It has been well held that broader pending claims are obvious in view of narrower patented claim. It is the examiner's position that the term "reconfigurably adjusting" reads on the laser trimming of the antenna claimed in the patent in that the laser-trimmed antenna has been reconfigured to tune the antenna circuits.

Claims 1,2,5,8,9,12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6466131. Although the conflicting claims are not identical, they are not patentably distinct from each other because the pending claims are broader than the patented claims. It has been well held that broader pending claims are obvious in view of narrower patented claim. It is the examiner's position that the term "reconfigurably adjusting" reads on the laser trimming of the antenna claimed in the patent in that the laser-trimmed antenna has been reconfigured to tune the antenna circuits.

Claims 1,2,5,8,9,12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 4 of U.S. Patent No. 6509837. Although the conflicting claims are not identical, they are not patentably distinct from each other because the pending claims are broader than the patented claims. It has been well held that broader pending claims are obvious in view of narrower patented claim. It is the examiner's position that the term "reconfigurably adjusting" reads on the laser trimming of the antenna claimed in the patent in that the laser-trimmed antenna has been reconfigured to tune the antenna circuits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1,2,4,5,7-9,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray (5086290) and Markowitz (5626630).

Markowitz shows a transponder configured and tuned and shaped to receive an interrogation signal. Each transponder is uniquely configured. See col. 4 lines 40-45. Markowitz limits the frequency sensitivity of the transponders

to values that prevent collision of responses and interrogation signals. Markowitz shows the data communication device includes a transponder 17 (which includes a receiver to receive interrogation signals and a transmitter to reply in response to the interrogation, transceiver 18). Markowitz shows the transponder and a microstrip antenna to be enclosed within a housing and in an IC, see col. 4 lines 29+. Markowitz also shows a power supply within the transponder (figure 5a) see also col. 4 lines 62+. Markowitz shows the package to encapsulate the antenna (col. 4 lines 29+). Markowitz shows tuning the receiver circuit (col. 4 lines 40).

In analogous art, Murray suggests limiting a receiver's range to provide flexibility of a variety of ranges. See col. 1 lines 60-65. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized a range limiting element in the above modified system for provide flexibility. The use of such concepts in a passive transponder (as modified above) would control the ability to hear the wake up signal, thus controlling the operation range of the transponder. Although Murray discusses the tuning of a receiving circuit, it is well known in the art that transmitter circuits are tuned (or detuned) in the same manner as receiving circuits and such would affect the operating range of the transmitting circuit.

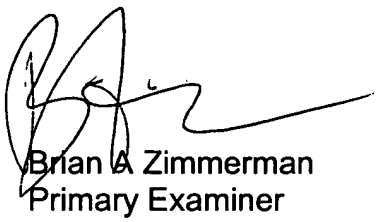
3. Claims 3,6,10,13,15-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray and Markowitz as applied to claims 1,2,4,5,7,8,9,11 and 12 above, and further in view of Schuerman (5491484).

In an analogous art, Schuerman shows a transponder that includes fixed circuit elements 240 that switched in and out rearrangably using switch 244, to tune and adjust the transponder. The control of the switching is done in response from a signal from the interrogator. See col. 5 lines 22-53. This provides a tuning mechanism that can be altered over and over again in response to the interrogation signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the switch controlled fixed circuit elements as tuning elements in the above modified system since this would improve the ability to provide multiple changes to the tuning of the circuit in response to signals received from the interrogator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on 7 am to 4 pm E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A Zimmerman
Primary Examiner
Art Unit 2612

BZ